

SETTLEMENT MEMORANDUM

THIS SETTLEMENT MEMORANDUM (the "Memorandum") is made and entered into as of the 29th day of December 2011 by and between **PAYSON WATER COMPANY, INC.**, an Arizona corporation (the "Water Company") and the **TOWN OF STAR VALLEY**, a municipal corporation and a political subdivision of the State of Arizona (the "Town") (individually, a "Party" and collectively, "Parties").

RECITALS

A. Water Company is a public service corporation, and holds a Certificate of Convenience and Necessity ("CC&N") granted by the Arizona Corporation Commission ("Commission"), together with other required permits and governmental approvals authorizing it to serve the public with water utility service in certain parts of Gila County, Arizona.

B. Water Company owns two water systems serving the Town of Star Valley, which system's location and make up are generally described on Exhibit A attached hereto and incorporated herein by this reference (the "Town System"). The Town System is Public Water System No. 04-037 as registered with the Arizona Department of Environmental Quality ("ADEQ"). There are approximately 403 residential and 6 commercial meter connections serving 361 customers on the Town System as of the date first set forth above.

C. Town intends to acquire the Town System from Water Company through the exercise of its power of eminent domain as set forth in A.R.S. § 12-1111 *et seq.* However, rather than engage in contested proceedings that will require the unnecessary expenditure of the Parties' resources, the Town and Water Company have reached an agreement to resolve the condemnation proceedings in an uncontested manner.

D. Upon the entry of final judgment of condemnation in the Gila County Superior Court and payment by the Town into escrow of the sum of SEVEN HUNDRED SEVENTY-FIVE THOUSAND and NO DOLLARS (\$775,000.00), beginning on May 1, 2012 at 9:00 AM, the Town will be the sole owner of the Town System and solely responsible for the provision of water utility service to the customers on the Town System, and Water Company will only be responsible for completion of any remaining Post-Condemnation Administration contemplated herein, which will require the parties to cooperate to accomplish various administrative matters related to the Town's acquisition of the Town System as addressed herein.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged Water Company and Town, intending to be legally bound, agree as follows:

1. Incorporation of Recitals. By this reference, the parties hereby agree to incorporate the recitals above as part of the terms and conditions of this Memorandum as if fully set forth herein.

2. Eminent Domain Proceedings. As soon as practicable but in no event later than December 30, 2011, the Town will initiate an action in Eminent Domain pursuant to A.R.S. § 12-1111 *et seq.* in Gila County Superior Court to condemn the Town System (the "Proceeding"). In connection with the Proceeding, the Parties further agree as follows:

A. To cooperate and prepare all documents, pleadings and other things necessary for the Proceeding to commence, be litigated and conclude with entry of a final judgment of condemnation to be followed by a final order of condemnation. The final judgment of condemnation shall also require the Town to pay into escrow the just compensation contemplated herein within 3 days of entry of judgment.

B. Water Company waives any claim that the Town has failed to comply with A.R.S. § 12-1116.A which requires the Town to first provide Water Company with an appraisal of the assets subject to the condemnation.

C. Town shall not seek immediate possession of the Town System, rather, the final judgment of condemnation will authorize the Town to take possession of the Town System on May 1, 2012 at 9:00 AM.

D. The Town System has a fair market value of no less than SEVEN HUNDRED SEVENTY-FIVE THOUSAND and NO DOLLARS (\$775,000.00) and that a condemnation award ("Compensation") to Water Company in that amount is just compensation for the taking of Water Company's Town System.

3. Payment of the Compensation. Within 3 days of entry of a final judgment of condemnation authorizing Town to take possession of the Town System, Town shall pay the Compensation into Escrow as contemplated herein. Water Company shall be entitled to receive payment of the Compensation from Escrow on May 1, 2012 at 9:00 a.m. Town further acknowledges and agrees that the consideration for Water Company's agreement not to contest the Proceeding specifically includes Town's agreement to pay the Compensation. Once the Compensation has been placed in Escrow, the Escrow Instructions agreed to herein shall govern its distribution.

4. Post-Condemnation Administration. Water Company and Town also agree that certain additional actions will need to be taken following entry the final judgment of condemnation. The Parties agree to fully and reasonably cooperate in all matters necessary to

complete the transfer of the Town System to the Town. In connection therewith, the Parties agree as follows:

a. Commission Notice. Following payment of the Compensation into Escrow, Water Company will notify the Commission of the final judgment of condemnation and ask that the Town System be administratively deleted from its CC&N or file any other necessary or appropriate information to allow the Commission to delete the Town System from Water Company's CC&N. In such notice, Water Company will indicate the treatment of meter deposits and line extension agreements applicable to the Town System. This provision does not constitute an admission by Water Company that Commission approval to transfer the Town System or cancel the CC&N is necessary under applicable law and regulation.

b. Customer Meter Deposits. Town is entitled to a credit for the value of meter deposits received by Water Company from customers within the Town System as May 1, 2012, and not applied to delinquent accounts by Water Company. Town acknowledges and agrees that as a result of the condemnation that, post-condemnation, Town shall assume all obligations for refunding the existing customer meter deposits.

c. Customer Receivables. In addition to and separate from the Compensation, Water Company shall be entitled to receive payment for the value of services rendered to customers in the Town System but not billed and services billed but not received as of the date of entry of the final judgment in the Proceedings (the "Customer Receivables"). Within thirty (30) days following May 1, 2012, Town and Water Company shall reach an accounting of Customer Receivables.

d. Water Well Documentation. Water Company and Town acknowledge that part of the Town System are water wells registered with the Arizona Department of Water Resources as Well Registration Numbers 55-501381, 55-605247, 55-519703, 55-538696, 55-548773 (the "Water Company Wells"). Water Company presently has on file documents with the Arizona Department of Water Resources relating to the Water Company Wells and agrees that it will cooperate with Town to accomplish the transfer or assignment of any such documentation following Water Company's lodging of a satisfaction of judgment.

5. Escrow Instructions. The Parties have agreed to the Escrow Instructions attached hereto as Exhibit B, which instructions authorize the Escrow Office to, among other things, release the Compensation to Water Company on May 1, 2012 at 9:00 a.m. Following payment of the Compensation from Escrow, Water Company shall promptly file evidence of satisfaction of judgment.

6. No Interference; Representations Regarding Condition; Waiver and Indemnity.

a. Other Systems. Town acknowledges that Water Company has other systems and customers and agrees that neither the Proceeding nor any aspect of the transition shall inhibit Water Company's operations in any manner.

b. "As is" condition. Town further acknowledges and agrees that it is taking title to a public water system in its existing condition subject only to the representations made herein.

c. Representations by the Water Company. The Water Company represents and warrants to the Town as follows:

i. *No known defects.* The Water Company is not aware of any material defects in the Town System;

ii. *Plans and specifications.* To the Water Company's knowledge, all plans and specifications of the Town System accurately reflect the system, and copies of all such plans and specifications will be provided to the Town on or before the entry of final judgment of condemnation.

iii. *Environmental liabilities.* The Water Company is not aware of any actual, probable or threatened environmental liabilities pertaining to the Town System;

iv. *Title.* The Water Company has good and marketable title to the Town System, and all the assets thereof including all easements used or necessary to operate the Town System.

v. *Valid corporate existence and powers.* The Water Company has been duly incorporated and validly exists under the laws of the State of Arizona. The Water Company has all requisite corporate power and authority to own its property and to carry on its business as now being conducted in the Town System.

vi. *Power to execute Memorandum.* The Water Company has all requisite corporate power and authority to execute and deliver this Memorandum, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Memorandum and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Water Company. This Memorandum has been duly and validly executed and delivered by Water Company and constitutes a valid and binding agreement of Water Company, enforceable against the Water Company in accordance with its terms.

vii. *No violation from execution and consummation of Memorandum.* The execution and delivery of this Memorandum by the Water Company and the consummation of the transactions contemplated hereby will not result in the violation of: (A) the Articles of Incorporation or Bylaws of the Water Company, (B) any material contract of the Water Company or (C) any statute, law, ordinance, rule or regulation (the "Law") or any order or judgment of any court or other governmental agency applicable to it or the transactions contemplated hereby.

viii. *No regulatory approvals needed.* No regulatory approval or consent of any other third party is required to be obtained by Water Company with respect to the execution and delivery of this Memorandum or the consummation of the transactions contemplated hereby.

ix. *No violations.* The Water Company is not in violation of, nor, to the knowledge of the Water Company, under investigation with respect to, any violation of, any

laws or any orders of the Commission, the ADWR, ADEQ, the USEPA or any other governmental agency with respect to the Town System.

x. *Receipt of authorizations.* The Water Company is duly authorized by the Commission to conduct the business of a water utility in the area served by the Town System and has all permits, licenses, franchises and other governmental authorizations, consents and approvals necessary to conduct its business therein.

xi. *Articles and Bylaws.* The Water Company is not in violation of any provision of its Articles of Incorporation or Bylaws.

xii. *Violation of other contracts.* The Water Company is not in violation of any contract applicable to the Water Company or its properties or assets, except for violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to the Town System.

xiii. *Regulatory filings.* All filings required to be made by Water Company since December 31, 2010, under any applicable Laws or orders of the Commission, the ADWR, the USEPA, the ADEQ or other applicable governmental agency, have been filed and all such filings complied, as of their respective dates, in all material respects with all applicable requirements of such laws or orders, except for such filings or such failures to comply that would not, individually or in the aggregate, reasonably be expected have a material adverse effect with respect to the Town System.

xiv. *Environmental Matters.* Neither the Water Company nor any of its property or operations is subject to any outstanding order, decree or agreement with any person relating to any environmental law. To Water Company's knowledge, there have been no conditions or occurrences (including the release of hazardous materials in, on, under or migrating from any of the Water Company's property or any failure by the Water Company to use store, transport or dispose of hazardous materials in compliance with Environmental Laws) which is reasonably expected to form the basis of a claim arising under any environmental law against the Water Company with respect to the Town System. The Town has been provided access to all environmental reports concerning any property of Water Company in its Town System (04-037) in the possession of the Water Company or its affiliates.

xv. *Water Quality.* The quality of water supplied by Water Company to its customers meets or exceeds all standards for quality and safety of water in all material respects in accordance with applicable laws and orders of any applicable governmental agency with respect to the Town System.

xvi. *Upgrades or improvements.* The Water Company has provided the Town with a Capital Expenditures Budget that represents its reasonably expected improvements, upgrades, and modifications in the Town System.

D. Knowledge. For the purposes of this paragraph, the words "knowledge" and "aware" refer to the actual knowledge of the officers, directors, managers, or employees of the Water Company or its affiliate Brooke Utilities, Inc.

E. Waiver and Indemnity Regarding CC&N. Water Company, for itself, and its successors, beneficiaries, heirs, assigns, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever waives any and all rights under its CC&N for the Town System. This waiver shall take effect upon the Town's payment of the Compensation into escrow in accordance with Section 3. In addition, Water Company agrees to indemnify, defend and hold harmless the Town from any and all claims made by any other person, entity or governmental agency making a claim due to the ACC's failure to reflect the deletion of the Town System from Water Company's CC&N. The indemnity contemplated herein shall expire on November 1, 2012.

F. Incorporation. The provisions of this Paragraph 6 shall be incorporated into the proposed final order of condemnation to be submitted to the Court in the Proceeding. The provisions of this Paragraph 6 shall remain in effect following the Courts approval of the final order of condemnation.

7. Term. The terms of this Memorandum shall continue in full force and effect until the parties have completed all of the necessary Post-Condemnation Administrative Proceedings contemplated herein, and in no event shall it terminate before Water Company has received full payment of the Compensation and notice from the Commission that the Town System has been removed from Water Company's CC&N and nothing further is required of the Water Company from the Commission or any other agency with applicable authority with respect to the Town System.

8. Ordinary Course of Business. For the period of time after the execution of this Memorandum and before the Town takes possession of the Town System on May 1, 2012, the Water Company shall operate the Town System in accordance with its ordinary course of business. Any deviations from the ordinary course of business shall not take place without prior notice to the Town and opportunity for comment by the Town, unless exigent circumstances prevent such notice.

9. Mutual release.

a. Release by the Water Company. Except as otherwise set forth herein and except as limited by the terms of this Memorandum, the Water Company, for itself, and its successors, beneficiaries, heirs, assigns, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever release, relieve, waive, absolve and acquit the Town, including without limitation, the Town's successors, beneficiaries, heirs, assigns, partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, from and of any and all claims including, without limitation, all demands, promises, causes of action, actions, suits, debts, liabilities, obligations, costs, expenses, sums of money, controversies, damages, accounts, reckonings, and liens of every kind or nature whatsoever, whether mature, contingent, past, present, future, direct, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, legal or equitable, which it has or

may have or have had, owned, or held at any time by reason of any matter, cause or thing, involving or reasonably related to the Town System or the Proceeding.

b. Release by the Town. Except as otherwise set forth herein and except as limited by the terms of this Memorandum, the Town, for itself, and its successors, beneficiaries, heirs, assigns, partners, partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever release, relieve, waive, absolve and acquit the Water Company, including without limitation, its successors, beneficiaries, heirs, assigns, spouses, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, from and of any and all claims including, without limitation, all demands, promises, causes of action, actions, suits, debts, liabilities, obligations, costs, expenses, sums of money, controversies, damages, accounts, reckonings, and liens of every kind or nature whatsoever, whether mature, contingent, past, present, future, direct, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, legal or equitable, which they have or may have or have had, owned, or held at any time by reason of any matter, cause or thing, involving or reasonably related to the Town System or the Proceeding.

10. Deadlines. The Town and the Water Company shall use best efforts to meet the deadlines specified in this Memorandum, including the December 23, 2011 date for filing the Proceeding. However, no monetary claim shall arise against any party for the failure to meet any such deadlines.

11. Binding Effect. This Memorandum shall be binding upon the parties and their respective successors and assigns.

12. Severability. If any portion of this Memorandum is found to be invalid, such finding will not affect the validity of the remainder of this Memorandum and to this end the provisions of this Memorandum are severable.

13. No Waiver. No waiver of any provision of this Memorandum shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to be a continuing waiver unless expressly provided for by a written amendment to this Memorandum signed by the parties; nor will the waiver of any default under this Memorandum be deemed a waiver of any subsequent default of the same type. The Town's failure to exercise any right under this Memorandum will not constitute the approval of any wrongful act by the Water Company.

14. Notices. All notices, requests and other communications hereunder shall be given in writing and either (i) personally served on the party to whom it is given, or (ii) mailed by registered or certified mail, postage prepaid, return receipt requested, (iii) sent by a nationally recognized overnight courier service, or (iv) sent by facsimile transmission, addressed to the party at the address provided below:

Water Company: Payson Water Company, Inc.
3101 State Rd.
Bakersfield, CA 93308

Attn: Robert T. Hardcastle
Email: RTH@brookeutilities.com
FAX: (661) 633-7551

With a copy to: Jay L. Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012-2913
FAX: (602) 916-5566

Town: Town of Star Valley
Attention: Town Manager
3675 East Highway 260
Star Valley, Arizona 85541

With a copy to: Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, Arizona 85004

All notices shall be deemed delivered and received upon the earliest of (a) actual receipt, (b) the third (3rd) day after the day of mailing, (c) the next business day after the date of deposit with a nationally recognized overnight courier service, or (d) upon confirmation of error-free facsimile transmission. Any notices received on a Saturday, Sunday or on an Arizona State or federal holiday, or after 5:00 p.m., Arizona time, on a business day shall be deemed received on the next succeeding business day. Any party may change its address for the receipt of notices at any time by giving written notice thereof to the other parties in accordance with the terms of this paragraph. The inability to deliver notice because of a changed address of which no notice was given, or the rejection or other refusal to accept any notice, shall be deemed to be the effective receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept.

15. Effective Date of Memorandum. This Memorandum shall become effective upon execution.

16. Controlling Law. This Memorandum and the rights of the Parties hereto shall be governed by and construed in accordance with the internal laws of the State of Arizona without regard to conflicts of laws principles.

17. Authority. The Parties acknowledge and warrant that each of them is fully authorized and empowered to execute this Memorandum by and through the individual(s) executing hereinafter.

18. Further Documents. The Parties shall execute and deliver any and all such documents and perform any and all such acts as reasonably necessary or required to carry out the matters contemplated by this Memorandum, including, without limitation, all documents

necessary for Town to initiate and prosecute an action for condemnation of the Town System in Gila County Superior Court and all documents necessary to seek confirmation of the deletion of the Town System from Water Company's CC&N.

19. Representations. Each of the Parties acknowledges and warrants that it has been, or has had an opportunity to be represented by independent counsel. This Memorandum is the result of negotiation between the Parties and their respective attorneys, and the terms, conditions and provisions of this Memorandum shall be construed in a fair and even manner regardless of the Party who drafted this Memorandum or any provision or portion thereof.

20. Counterparts. This Memorandum may be executed in one or more counterparts. Each executed counterpart shall for all purposes be deemed an original, but all of which together shall constitute in the aggregate but one and the same instrument. The signature pages from one or more counterparts may be removed there from and attached to one or more duplicate agreements containing all original signatures.

21. Date of Performance. If this Memorandum provides that any time period expires or date for performance specified in this Memorandum falls on a non-business day (a Saturday, Sunday or legal holiday recognized by the Town), such time period or performance deadline shall be extended to the Town's next business day. Except as may otherwise be set forth herein, any performance shall be timely made and completed no later than 5:00 p.m. (Arizona time) on the date the performance is due.

22. Complete Agreement. This Memorandum and additional written agreements described herein, if any, contain and set forth the entire and exclusive Memorandum and understanding between the Parties hereto pertaining to the subject matter of this Memorandum and reflect the reasonable expectations of the Parties hereto. This Memorandum may not be amended or modified in any way whatsoever without the prior written consent of all Parties to this Memorandum. Notwithstanding anything to the contrary contained in this Memorandum, this Memorandum is not intended to modify, amend, replace, abridge, abrogate or otherwise affect any other rights or obligations of Water Company.

23. Dispute Resolution. Any dispute, controversy, claim, or cause of action arising out of or related to this Memorandum shall be governed by Arizona law and may, but in no event need, be settled by submission with the consent of all parties to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, *et seq.*, and judgment upon any award rendered by the arbitrator(s) may be entered in the Superior Court of Maricopa County, or any such dispute, controversy, claim or cause of action may be litigated in a court. The venue for any such dispute shall be Maricopa County, Arizona.

24. Conflict of Interest. This Memorandum is subject to the provisions of A.R.S. § 38-511 and Town represents, to the best of its knowledge that no such conflict exists.

25. No Other Party Benefit. This Memorandum inures to the benefit of the Parties and is not executed for the benefit of other parties, such as, but not limited to, material men, laborers, or others providing work, services or materials in furtherance of the Water Company.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first set forth above.

WATER COMPANY:

Payson Water Company

By: 

Name: Robert L. Fredrick

Title: PRESIDENT

TOWN:

Town of Star Valley, a municipal corporation

By: 

Name: Timothy Gaiga

Title: TOWN MANAGER

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

Exhibit "A"

Description of Town System

Exhibit "B"

Escrow Instructions

iManage/2504074

EXHIBIT A

[illegible]

Star Valley/Quail Valley Water System Components

2" PVC pipe (installed)
2" GI pipe (installed)
4" AC pipe (installed)
6" AC pipe (installed)
4" C900 pipe (installed)
6" C900 pipe installed
8" C900 pipe installed
SV well #1
SV well #2
QV well #1
TK well #1
TK well #2
2 hp booster pump
3 hp booster pump
5 hp booster pump
7.5 hp booster pump
15 hp well pump
7.5 hp well pump
25 hp booster pump
15,000 gallon steel storage tank
20,000 gallon steel storage tank
60,000 gallon storage tank
160,000 gallon storage tank
1,000 gallon pneumatic tank
2,000 gallon pneumatic tank
Air compressors and release valves (complete)
Well chlorinator
5/8 X 3/4 service meters
1" well meters
3" well meters
Real property (land)
Buildings & Structures
6" Fire hydrants
8" Fire hydrants
Communication equipment
4" water main valves
6" water main valves
8" water main valves
1,000 GPM Peerless Fire pump (complete)
490 ft. chain link fence, gates, locks
630 sq. ft. Well building structures (complete)
2" pressure reducing valves

BEFORE THE ARIZONA CORPORATION COMMISSION

MILTON J. HUSKY
Chairman
DICK HERBERT
Commissioner
E. T. "EDDIE" WILLIAMS, JR.
Commissioner

IN THE MATTER OF THE APPLICATION FOR TRANSFER OF CERTIFICATE
OF CONVENIENCE AND NECESSITY FOR FURNISHING WATER IN THE
CERTIFICATED AREA IN GILA COUNTY, ARIZONA FROM RAYMOND M.
CLINE, DBA PAYSON WATER COMPANY, TO UNITED UTILITIES, AN
ARIZONA CORPORATION.

DOCKET NO. U-1386
U-1993

DECISION NO. 38614

OPINION AND ORDER

BY THE COMMISSION:

The above entitled matter came on for hearing before
the Commission sitting at Phoenix, Arizona on May 13, 1966

Applicant appeared by Glen L. Randall, attorney, and
no appearance was entered in opposition to the granting of the
approval sought.

Evidence was adduced upon the application, and from
that evidence it is found as follows:

1. That applicant desires to acquire and Payson
Water Company desires to transfer the physical assets and
operating rights of Payson Water Company.

2. That such transfer is in the public interest.

WHEREFORE, IT IS ORDERED approving the sale of the
physical assets of Payson Water Company to United Utilities, a
corporation, in accord with that certain written agreement
between the transferor and the transferee herein, dated
December 31, 1965, and entered in evidence on the application
herein.

IT IS FURTHER ORDERED that United Utilities, a
corporation, shall succeed to the rights and duties of Payson
Water Company under those certificates of convenience and
necessity issued in Docket No. U-1386 of this Commission, and
being Decisions 27729, 28947, 31492, 31603, 31921 and 33016
therein, and that this order shall constitute a certificate
of convenience and necessity for the operation by United

Utilities, a corporation, of a public utility water system
in the area described as follows:

TOWNSHIP 10 NORTH, RANGE 10 EAST:

Section 3; Section 4; Section 5; the North Half of
Section 8; the North Half of Section 9; and the North
Half of Section 10.

TOWNSHIP 10 NORTH, RANGE 11 EAST:

Section 5, except such portions as may have been within
Tonto National Forest and under authority of the United
States Forest Service, on June 3, 1959.

TOWNSHIP 11 NORTH, RANGE 10 EAST:

Section 27; Section 33; and Section 34; except that part
of each of those sections that may have been unpatented
on May 24, 1955, and
Section 17; Section 18; and Section 19; except such portions of each
of each of those sections as may have been within Tonto
National Forest, and under authority of the United States
Forest Service, on April 27, 1959, and
Section 36; except such portions as may have been within
Tonto National Forest, and under authority of the United
States Forest Service, on June 3, 1959, and
The whole of "Homestead Entry Survey No. 123," a parcel
of land more particularly described as follows: beginning
at the common corners of Sections 33 and 34, Township 11
North, Range 10 East, and of Sections 3 and 4, Township 10
North, Range 10 East, thence North 0° 38' East for a dis-
tance of 83.97 chains (5542.02') to the true point of
beginning, thence North 64° 22' West for a distance of
70.69 chains (4665.54'), thence North 10° 18' East, for a
distance of 15.11 chains (977.26'), thence South 64° 36'
East for a distance of 26.30 chains (1735.8'), thence
North 76° 37' East for a distance of 20.17 chains (1331.22'),
thence South 40° 45' East for a distance of 48.92 chains
(3220.72'), thence South 82° 51' West for a distance of
14.47 chains (955.02') to the true point of beginning, and

the whole of "Homestead Entry Survey No. 577," a parcel
of land more particularly described as follows: beginning
at the northeast corner of Section 24, Township 11 North,
Range 10 East, thence South 74° 44' West for a distance
of 61.39 chains (4051.74') to the true point of beginning,
thence South 2° 42' East for a distance of 13.6 chains (897.6'),
thence South 33° 45' West for a distance of 37.28 chains
(2460.48'), thence North 55° 48' West for a distance of
15.28 chains (1008.48'), thence North 1° 49' East for a
distance of 30.57 chains (2017.62'), thence North 18° 32'
East for a distance of 13.38 chains (883.08'), thence
North 46° 45' East for a distance of 12.77 chains (842.82'),
thence South 48° 31' East for a distance of 24.28 chains
(1602.48') to the true point of beginning.

U-1986
DOCKET NO. U-1993

DECISION NO. 38614

TOWNSHIP 11 NORTH, RANGE 11 EAST:

Section 31; and Section 32; except such portions of each of those sections as may have been within Tonto National Forest, and under authority of the United States Forest Service, on June 3, 1959.

AND IT IS FURTHER ORDERED that the rates and charges of the transferee shall be as heretofore authorized for Payson Water Company within the areas above described.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

IN WITNESS WHEREOF, I, GEORGE S. LIVERMORE, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed, at the Capitol in the City of Phoenix, this 26 day of August, 1966.



GEORGE S. LIVERMORE
EXECUTIVE SECRETARY

EXHIBIT B

Exhibit B

Escrow Instructions

December ____, 2011

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona 85016
Attention: Neil Moffett

Dear Neil:

First American Title Insurance Company, a California corporation, has been selected to act as the escrow office (the "First American") in connection with that certain *Settlement Memorandum* (the "Memorandum"), dated December ____, 2011, between Payson Water Company, Inc., an Arizona corporation (the "Water Company"), and the Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona (the "Town"). Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Memorandum.

As set forth in the Memorandum, on or before December 30, 2011, the Town will initiate an action in Eminent Domain in Gila County Superior Court (the "Court") pursuant to ARS § 12-1111 *et seq.* to condemn the Town System (the "Proceeding"). As part of the Proceeding, the Town has agreed to pay to Water Company the sum of Seven Hundred Seventy-five Thousand and 00/100 Dollars (\$775,000.00) as compensation (the "Compensation"). The Compensation shall be escrowed and disbursed as set forth below.

First American is hereby directed to hold, deal with, and dispose of the Compensation in accordance with the following terms and conditions:

1. Within 3 days of entry of a final judgment of condemnation by the Court authorizing the Town to take possession of the Town System, the Town shall deposit with First American the Compensation. The Compensation shall be wired to First American in accordance with the account and wiring information you have provided and which is enclosed herein.

2. First American is instructed to invest the Compensation in an interest-bearing savings or money market account or short term U.S. Treasury Bills or similar cash equivalent securities, as Water Company may direct. Any interest earned on the Compensation, after deduction of First American's customary investment charges, shall become and be deemed to be a part of the Compensation. Any escrow fee to be charged by First American is to be borne by the Town.

3. On May 1, 2012, at 9:00 a.m., Mountain Standard Time, First American shall release the Compensation to Water Company pursuant to the wiring instructions to be provided by Water Company.

All notices, requests, demands or other communications required or permitted under these Escrow Instructions shall be in writing and delivered personally, by certified mail, return receipt requested, postage prepaid, by overnight courier (such as Federal Express), or by facsimile

transmission with confirmation of error-free transmission (with a copy to follow by certified mail, return receipt requested, postage paid or by overnight courier), addressed as follows:

If to Water Company:

Payson Water Company, Inc.
3101 State Road
Bakersfield, California 93308
Attn: Robert T. Hardcastle
Email: RTH@brookeutilities.com
Facsimile: (661) 633-7551

With a copy to:

Jay L. Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012-2913
Facsimile: (602) 916-5566

If to Town:

Town of Star Valley

Facsimile: () _____
Attention: _____

With a copy to:

Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, Arizona 85004

If to First American:

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona
Attention: Neil Moffett
Facsimile: (602) 567-8101

All notices given in accordance with the terms hereof shall be deemed received on the earliest of the next business day if sent by overnight courier, on the same day if sent by facsimile transmission before 5:00 p.m. (Mountain Standard Time) on a business day or on the following business day if sent on a non-business day or after 5:00 p.m. (Mountain Standard Time), on the third (3rd) business day following deposit with the United States Mail as a registered or certified matter with postage prepaid, or when delivered personally or otherwise received. Any party

hereto may change the address for receiving notices, requests, demands or other communication by notice sent in accordance with the terms of this paragraph.

These Escrow Instructions are being entered into to implement the Memorandum and shall not (nor be deemed to) amend, modify or supersede the Memorandum or act as a waiver of any rights, obligations or remedies set forth therein; provided, however, that First American may rely solely upon these Escrow Instructions.

Agreed and Acknowledged this 29th day of December, 2011.

WATER COMPANY:

Payson Water Company, an Arizona corporation

By: 

Name: Robert T. Henderson

Title: President

TOWN:

Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona

By: 

Name: Robert T. Henderson

Title: Town Manager

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

Agreed and Acknowledged this ____ day of December, 2011.

FIRST AMERICAN:

First American Title Insurance Company,
a California corporation

By: _____

Name: _____

Title: _____